

In the Matter of Merchant Mariner's Document No. Z-888480-D3 and
all other Seaman Documents

Issued to: JAY JAMES TRAVIS

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

1034

JAY JAMES TRAVIS

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

An Examiner of the United States Coast Guard conducted the hearing at Tampa, Florida and by order dated 14 May 1957 at Jacksonville, Florida revoked Appellant's seaman documents upon finding him guilty of misconduct. One specification alleges that while serving as deck maintenance man on the American SS AFRICAN SUN under authority of the document above described, on or about 15 September 1956, Appellant failed to join said vessel in a foreign port. A second specification alleges that while serving as an able seaman on board the American SS JAMES LYKES under authority of the document above described, on or about 23 March 1957, Appellant misused his seaman's document by wrongfully giving or pledging it to a person not lawfully entitled thereto.

At the beginning of the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by counsel of his own choice, Appellant elected to waive that right and act as his own counsel. He entered a plea of "not guilty" to the charge and each specification.

The Investigating Officer and Appellant made their opening statements. The Investigating Officer introduced in evidence certified extracts from the Shipping Articles and Official Logbook of the SS AFRICAN SUN. For proof of the second specification the Master of the JAMES LYKES was called to testify, and the Investigating Officer introduced in evidence documents dealing with payment of a taxicab driver by company agents to obtain the return of Appellant's document.

In defense, Appellant testified in his behalf.

At the conclusion of the hearing, the oral argument of the

Investigating Officer was heard, Appellant declined to argue, and both parties were given an opportunity to submit proposed findings and conclusions. The Examiner then announced the decision in which he concluded that the charge and both specifications had been proved. An order was entered revoking all documents issued to Appellant.

An attempt to serve the decision by registered mail was unsuccessful and it was ultimately served in New York on 27 December 1957. Appeal was timely filed on 15 January 1958.

FINDINGS OF FACT

On 15 September 1956, Appellant was in the service of the American SS AFRICAN SUN as deck maintenance man and acting under authority of his Merchant Mariner's Document No. Z-888480-D3 while the ship was in the port of Dar es Salaam, Tanganyika. Appellant failed to join his ship upon her departure on that day.

On or about 23 March 1957, Appellant was serving as an able seaman on board the American SS JAMES LYKES and acting under authority of the above described document while the ship was in the port of Bremerhaven, Germany. On or about that day Appellant delivered his Merchant Mariner's Document to a taxicab driver as security for a fare debt. The document was left behind in the hands of the foreign national when the vessel departed. It was later returned to Appellant when the debt was paid by the shipowner's agent at Appellant's request and deducted from his wages.

Appellant has a prior record of misconduct indicating two other instances of failure to join and refusal to obey a lawful command.

BASIS OF APPEAL

This appeal is taken from the order imposed by the Examiner. Appellant concedes the correctness of the finding of guilty as to the first specification but challenges the sufficiency of the evidence to support the second.

OPINION

The Examiner stated in his opinion that he did not accept the testimony of Appellant as a true statement of facts. With that opinion I concur. There were so many contradictions and improbabilities in Appellant's testimony considered by itself, and particularly in contrast with the Master's testimony and other evidence that the credibility of Appellant was completely

impeached. Appellant's revelation that the taxicab driver must have found the document and was using it for purposes of extortion is unbelievable in the face of the other evidence. Appellant admitted that he owed the driver money; he expressed no surprise when told by the Master that the document was being held by the driver. The driver's actions in going to the Master, coming aboard later in company with the police, in ultimately dealing directly with the steamship company agents, clearly do not express a behavior pattern suggestive of extortion.

CONCLUSION

In view of the foregoing it is my conclusion that the specifications and charge were adequately proved by substantial evidence. The seriousness of the offense of voluntarily leaving a document, validated for security clearance, in the possession of a foreign national is indicative of no justification for modification of the order of revocation.

ORDER

The Order of the Examiner dated at Jacksonville, Florida, on 14 May 1957 is hereby AFFIRMED.

A. C. Richmond
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 1st day of May, 1958.